IN THE CLAIMS:

The text of all pending claims, (including withdrawn claims) is set forth below. Cancelled and not entered claims are indicated with claim number and status only. The claims as listed below show added text with underlining and deleted text with strikethrough. The status of each claim is indicated with one of (original), (currently amended), (cancelled), (withdrawn), (new), (previously presented), or (not entered).

Please AMEND claims 1, 2, 6 and 8 in accordance with the following:

1.   (CURRENTLY AMENDED) A communications method of performing communications by switching over a plurality of communication modes, comprising:

measuring a communication performance between a plurality of communication devices connected to a network, based on each of the communication modes under a plurality of communication conditions;

obtaining a condition-based optimum communication mode in which the communication performance in one of the communication modes of one of the communication devices, exceeds a communication performance in other communication modes per communication condition of the one of the communication devices; and

selecting the condition-based optimum communication mode in accordance with the communication condition when in communications, and performing the communications between the communication devices based on the condition-based optimum communication mode of the one of the communication devices.

2.   (CURRENTLY AMENDED) A communication device for performing communications with another communication device connected to a network, by switching over a plurality of communication modes, comprising:

a performance measuring module for measuring a communication performance of the communication device to the other communication device, based on each of the communication modes under a plurality of communication conditions;

a optimum mode obtaining module for obtaining a condition-based optimum communication mode in which the communication performance of the communication device to the other communication device in one of the communication modes exceeds a communication performance in other communication modes per communication condition based on the measured communication performance; and

a selection module for selecting the condition-based optimum communication mode in

accordance with the communication condition when in communications, to thereby perform the communications between the communication devices based on the condition-based optimum communication mode of the communication device.

3.   (CANCELLED)

4.   (CANCELLED)

5.   (CANCELLED)

6.   (CURRENTLY AMENDED) A readable-by-computer recording medium recorded with a program for communications by switching over a plurality of communication modes, said program comprising:

measuring a communication performance between a plurality of communication devices connected to a network, in each of the communication modes under a plurality of communication conditions;

obtaining a condition-based optimum communication mode in which the communication performance in one of the communication modes of one of the communication devices, exceeds a communication performance in other communication modes per communication condition of the one of the communication devices; and

selecting the condition-based optimum communication mode in accordance with the communication condition when in communications, and performing the communications between the communication devices based on the condition-based optimum communication mode of the one of the communication devices.

7.   (CANCELLED)

8.   (CURRENTLY AMENDED) A communication device according to claim 2, further comprising:

a storage unit for storing a condition-based optimum communication mode,

wherein said performance measuring module measures the communication performance in the communications with said other communications device if not stored with the condition-based optimum communication mode in communications with said other communications device when performing the communications with said other communication device, and

said optimum mode obtaining module obtains the condition-based optimum communication mode.

9.   (CANCELLED)

10.   (CANCELLED)

11.   (CANCELLED)